IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8048 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MATANA SEVA SAHKARI MANDALI LTD. - Petitioner(s)
Versus
STATE OF GUAJRAT THR' AVINASH KUMAR, IAS & 5 - Respondent(s)

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Appearance :

MR BM MANGUKIYA for Petitioner(s) : 1,
GOVERNMENT PLEADER for Respondent(s) : 1,
None for Respondent(s) : 2 - 4, 6,
MR RM CHHAYA for Respondent(s) : 5,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 07/09/2006

ORAL JUDGMENT

1. Rule. Learned AGP Shri Siraj Gori waives service

of notice of rule on behalf of respondents no. 1,2 and 3. Learned advocate Shri Chhaya waives service of notice of rule on behalf of respondent no.5. Learned advocate Shri Mangukiya seeks permission to delete respondent no.4. Permission is granted.

2. In the present petition, the petitioner which is a cooperative society registered under the provisions of Gujarat Cooperative Societies Act has challenged an order dated 8-4-2005 passed by the State Government. By the impugned order, the revisional authority was pleased to accept the revision of respondent no.5 herein. The petitioner is objecting to the registration of respondent no.5-society contending that the said society operates in the same field and in the same village as that of petitioner-society and that therefore, registration of second society is not desirable. It is contended that prior to granting registration to respondent no.5-society, the petitioner was not heard. It is also contended that registration of respondent no.5 society could not have been granted even other-wise since the society does not fulfill

mandatory requirements under the Act.

3. On the other hand, learned AGP Shri Gori for the State Authorities as well as learned advocate Shri Chhaya for respondent no.5 contesting society have sought to support the impugned order contending that reasons have been indicated in the order for allowing the revision application.

4. Having heard learned advocates appearing for the parties, it appears that certain vital aspects of the matter though urged by the petitioner before the Government in the impugned order, these issues are not considered. The question of hearing of petition before grant of registration as well as the question of respondent no.5 society other-wise fulfilling the requirement of registration have not been adverted to. It would therefore, be necessary that revisional authority consider the question afresh. While doing so, the contention of respondent no.5 that the appellate authority entertained the appeal of the petitioner after much delay shall also be gone into. For the

above purpose, impugned order dated 8-4-2005 is quashed. Proceedings are remanded to the State Government for fresh orders in accordance with law after hearing the rival parties. This shall be done expeditiously and preferably within a period of four months from the date of receipt of a copy of this order.

5. In view of these directions, the petition is disposed of. Rule made absolute with no order as to costs.

Direct service is permitted.

(Akil Kureshi,J.)

(raghu)